

City of Nogales  
Planning & Zoning Department  
Variance Application



## VARIANCE APPLICATION PROCEDURES

The City of Nogales Development Standards Code and Arizona State Law, requires that an application for a Variance must meet all of the following criteria before it can be presented to the Board of Adjustment for their consideration.

1. That there exist special conditions and circumstances existing which are **peculiar to the land, structure or building** involved in the application, and which are not applicable to other lands. Structures or buildings in the same district (size, shape, topography, location or surroundings); and
2. That the literal interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Ordinance; and
3. That the alleged hardship(s) caused by a literal interpretation of the provisions of the zoning ordinance include more than personal/business inconvenience and more **than a personal/business financial hardship**, and do not result from the actions of the applicant; and
4. That granting the variance requested does not confer upon the applicant any special privilege that is denied by the zoning ordinance to other lands, structures or buildings in the same district; and
5. That granting the variance request does not interfere or injure the rights of other properties in the same district.

If all of the above criteria cannot be demonstrated in the application request, the application will not be scheduled for a hearing before the Board of Adjustment. If all of the above criteria are satisfactory demonstrated, the application will be scheduled for a hearing before the Board of Adjustments, who will then in its sole discretion decide whether the variance will be granted, and if so under what conditions.

### **A. Pre-Application Conference**

A pre-application meeting with the Planning and Zoning Department is required to familiarize you with the Board of Adjustment procedures and the criteria necessary for a favorable recommendation. A pre-application meeting can be arranged by contacting the Planning and Zoning Department at (520) 287-8342.

**B. Submittal requirements for a Variance**

1. APPLICATION – Print or type the information requested on the application form including the Variance Request Questionnaire. The completed application must be filled with the Planning and Zoning Department **five** (5) weeks, prior to being heard by the Board of Adjustment.
2. SITE PLAN – Submit a site plan of your property, no larger than 24” x 36.” The submittal shall include ten (10) copies of engineer/drafter rendition of proposed property layout. The site plan should include the following information:
  - a. Property boundaries and dimensions of the property in question
  - b. All existing and proposed structures
  - c. All adjacent street, alleys and easements
  - d. Building setbacks
  - e. Require off-street parking
  - f. A partial site plan for adjacent properties reflecting relationship between variance request to adjoining properties and structures.
  - g. All other pertinent information requested by the Planning and Zoning Department necessary to explain the variance request.
3. The plans noted above shall include detailed drawing of the project at a scale of sufficient size to readily provide all pertinent information pertaining to the various elements of the request.
4. A written narrative describing the request.
5. Name and mailing address of surrounding property owners within a 300 ft. radius of subject site.
6. Any other documents determined by the Planning and Zoning Department to assist in evaluating the request.
7. Filing fee \$275.00 non-refundable, and is due paid when the application is accepted for presentation and consideration to the Board of Adjustment.
8. A \$100.00 fee over and above the application fee is required to cover the anticipated cost of advertising or publications. Arizona Revised Statute 9-812b states “in cases of laws or ordinances enacted on behalf of a private person, he shall pay the expense of publication, and may designate the newspaper.”
9. Filled out and notarized diminution in value and just compensation (proposition 207) waiver.

C. **Public Hearing**

The applicant or their designated representative must attend the meeting when their application is being considered. Failure to attend may result in postponement of action or denial of the request by the Board of Adjustment.

D. **Appeals**

Appeals of any decision of the Board of Adjustment may be made directly to the Superior Court within 30 days after the Board of Adjustment has rendered its decision. Variance rulings not appealed within 30 days are final.



City of Nogales  
Planning & Zoning Department  
1450 N. Hohokam Drive • Nogales, Arizona 85621  
Office (520) 285-5747 • Fax (520) 287-6946

### Application for a Variance from District Regulations

Name of Applicant: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Applicant Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Address of Property: \_\_\_\_\_

Assessor's Parcel Number: \_\_\_\_\_

Present Zoning of Property for Variance Request: \_\_\_\_\_

Existing use of Property: \_\_\_\_\_

Applications for a Variance may be filed by any person, the City of Nogales, or by any Federal, State, County, School District, or City Governmental Agency based on the allegation that an unnecessary property hardship, which substantially limits the preservation and enjoyment of property rights results from provisions of the zoning ordinance.

Application is for a Variance from (district regulations, setbacks, yard requirements, height requirements, signs, fence height, etc.):

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Specific Variance modification requested:

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Code requires:

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Specific reason for Variance request:

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I, the undersign, certify that all of the facts set forth in this application are true to the best of my knowledge and that I am either the owner of the property or that I have been authorized in writing by the owner to file this application and checklist.

\_\_\_\_\_  
Print name of Applicant

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

Please note that a request will not be scheduled on an agenda until the application is completed. Submittal of an application and payment of a fee does not constitute a complete application or acceptance, until the application is verified as complete and confirmation has been given by the Planning Department to the applicant verbally.

The applicant, or their designated representative must attend the meeting when their application is being considered. Failure to attend may result in postponement of action or denial of the request by the Board of Adjustment.

You will be notified of the date and time of the public hearing. In addition, notice of your variance request is placed in the local newspaper and the property is posted with a hearing notice.

Office Use Only

Received and filed by Planning & Zoning Department, Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Docket Number: \_\_\_\_\_

City of Nogales  
Board of Adjustment Variance Request  
Questionnaire

The following questions must be answered prior to the acceptance of the application. Please type or print your response and attach additional sheets as necessary.

1. Describe the special conditions and circumstances existing which are peculiar to the land, structure or building involved in the application, and which are not applicable to other lands, structures or buildings in the same district (size, shape, topography, location or surroundings).

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2. Describe how the literal interpretation of the provisions of the zoning ordinance will deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the ordinance.

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3. Describe how the alleged hardship(s) caused by a literal interpretation of the provisions of the zoning ordinance include more than personal inconvenience and financial hardship, and do not result from the actions of the applicant.

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4. Indicate why granting the requested variance will not confer upon the applicant any special privilege that is denied by the zoning ordinance to other lands, structures or buildings in the same district.

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5. Indicate why granting the requested variance will not interfere or injure the rights of the other properties in the same district.

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